

DETAILED ACTION

Claim Objections

1. Claim 8 is objected to because of the following informalities: In line 1 the phrase "packaging products" should be changed to "packaging one or more products" and in lines 5 and 9 the phrase "the or each" should be changed to "the one or more" in order to make it clear that one or more products is being packaged. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "they [bearing flaps] include an acute angle with the bottom face" is not supported by the specification. Figure 5 shows that the bearing flaps (13) have are attached to the side panel (11) at fold lines (14). With this structural limitation, the bearing flap must remain perpendicular to the bottom face, which is also

what is illustrated in Figure 1. The specification, including the drawings, does not show how the bearing flaps include an acute angle with the bottom face.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, the structural limitation "two bearing parts of the outer package folded in the inner package" is indefinite because it is unclear how the bearing parts can be folded in the inner package if the inner package is borne on, and therefore sitting on and above, the bearing parts. It appears the Applicant is trying to say "folded in the outer package."

Claim 6 contains the trademark/trade name Paperfoam in line 3. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name.

Claim 7 recites the limitation "the blank" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear what the limitation "they [bearing flaps] include an acute angle with the bottom face" means because the limitation does not clearly recite between which face the angle is measured.

Claim 8 recites the limitation "said accessories" in line 7. There is insufficient antecedent basis for this limitation in the claim. This limitation is not positively recited above and is not considered to have a positive recitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mena et al. (US Patent No. 5,823,352).

Regarding claim 1, Mena et al. discloses a package for electronic packages with: a box-shaped outer package or "shell" (12) and an inner package or "insert" (58), wherein the outer package is provided with an inner space formed by at least a bottom (24) and sidewalls or "panels" (16, 18, 20, 22), and the inner package is borne on at least two bearing parts or "slits" (50) of the outer package folded in the outer package such that the inner package extends substantially parallel to and at a distance from the

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bottom of the outer package (see marked up Figure 2 below). The slits support the tabs (48) of the first inert and therefore act as bearings.

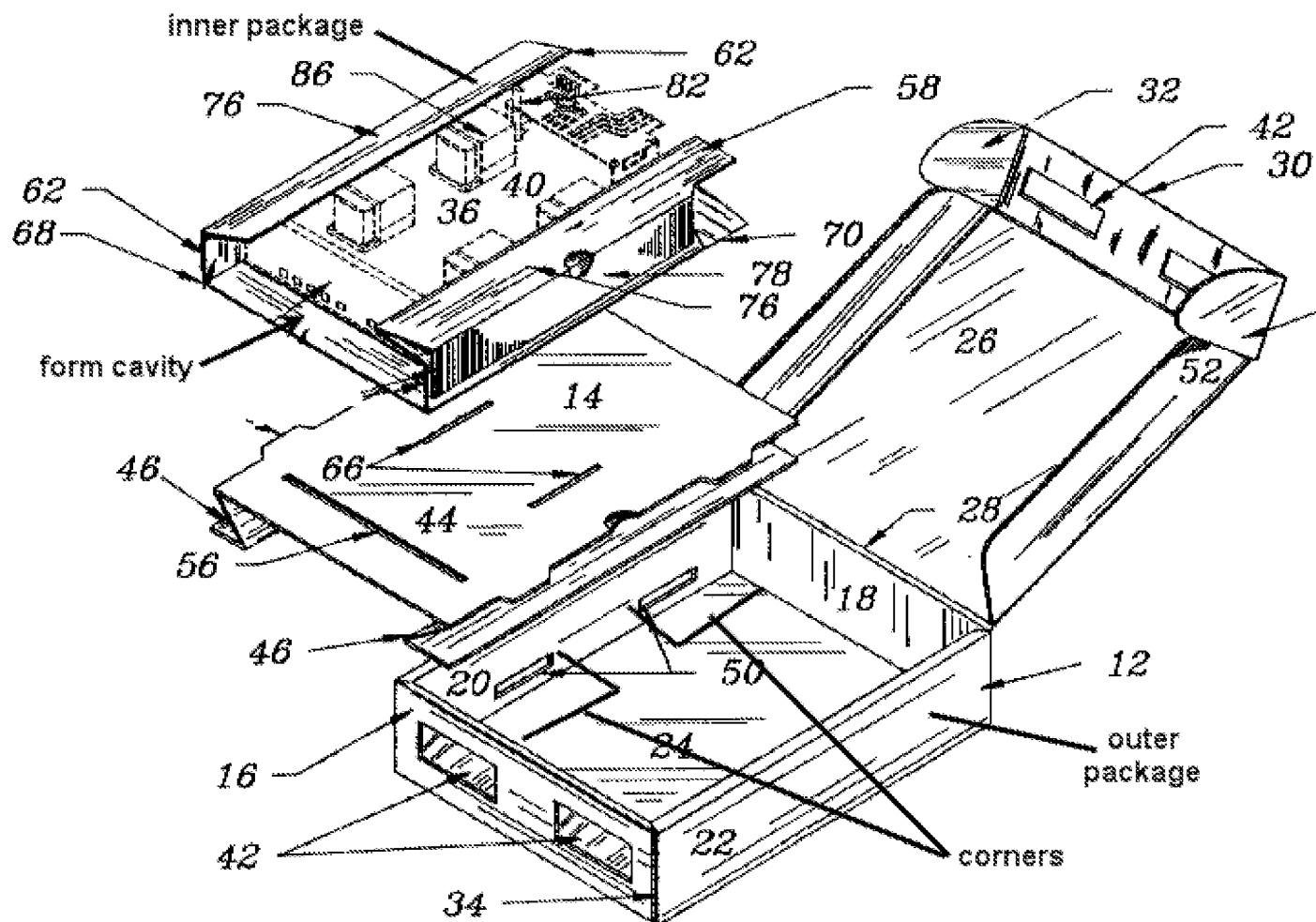


FIG-2

Regarding claim 3, Mena et al. discloses that the inner package is provided with a form cavity in which at least one product such as an electronic component can be received (see Figure 2 above).

Regarding claim 5, Mena et al. discloses that the outer package and the inner package are manufactured from substantially natural products that are recyclable as paper (column 6, lines 56-63).

Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by King (GB 1,511,138).

Regarding claim 1, King discloses a package for electronic packages with: a box-shaped outer package and an inner package or "anchor sheet (22), wherein the outer package is provided with an inner space formed by at least a bottom (1) and sidewalls (2, 3, 4, 5), and the inner package is borne on at least two bearing parts or "corner flaps" (13) of the outer package folded in the outer package such that the inner package extends substantially parallel to and at a distance from the bottom of the outer package (Fig. 1, 4).

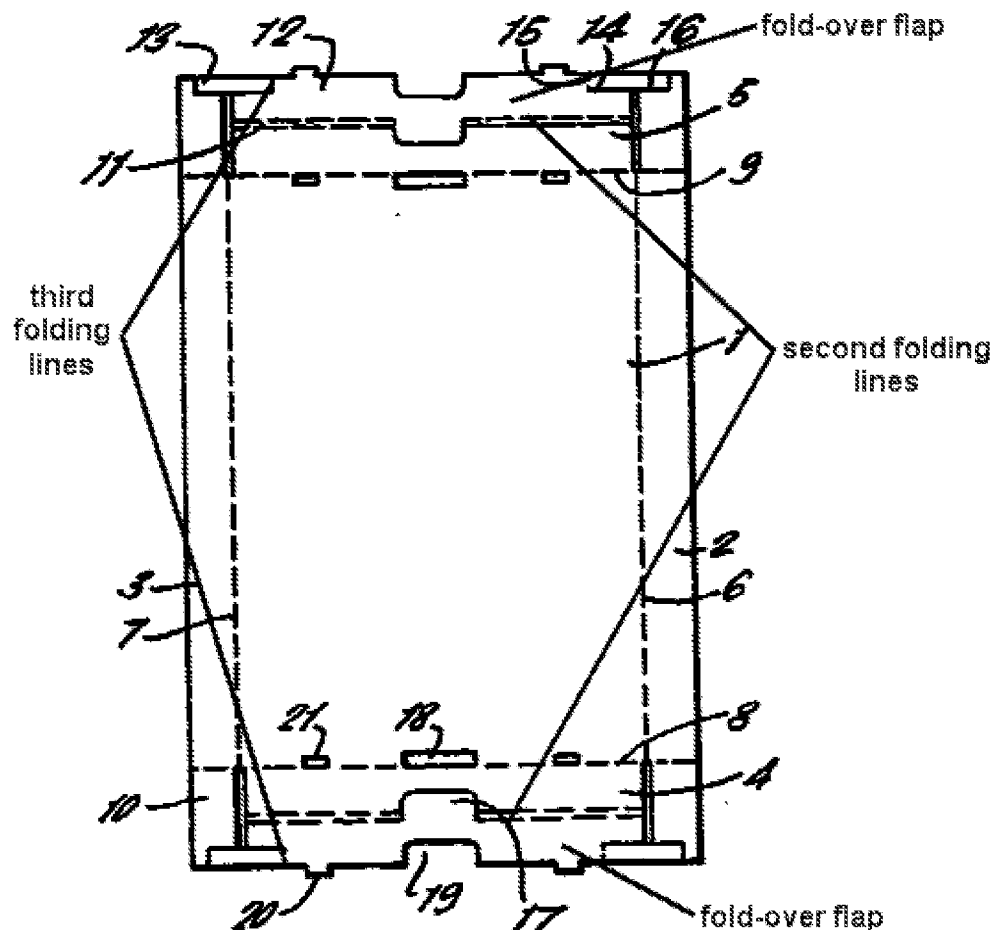
Regarding claim 3, King discloses that the inner package is provided with a form cavity or "aperture" (23) in which at least one product such as an electronic component can be received (column 3, lines 35-37).

Regarding claim 4, King discloses that the outer package is folded from a blank which includes the bearing parts (column 3, line 6; Fig. 1).

Regarding claim 5, King discloses that the outer package and the inner package are manufactured from substantially natural products that are recyclable as paper (column 3, lines 6, 38-39).

Regarding claim 7, King discloses that the blank is provided with at least one bottom face (1), four sidewall flaps (2, 3, 4, 5) connected to said bottom face via respective first folding lines (6-9), two opposite sidewall flaps being connected at the side remote from the bottom face via second folding lines to fold-over flaps or "panels" (12), the fold-over flaps and/or the respective sidewall flaps each being provided on opposite sides, via third fold lines, with bearing flaps (13) forming bearing parts which bearing flaps extend such that when the box is set up, they include an acute angle with at least one of the sidewalls, in particular with the sidewall to which they are connected via the respective third folding line, while from the bottom, the bearing flaps have a height which is smaller than the height of the sidewall flaps (see marked up Figure 1 below; Fig. 3).

FIG. 1.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mena et al. (US Patent No. 5,823,352).

Mena et al. discloses a cover or “top panel” (26) provided to the outer package, and that the inner package virtually abuts against the cover if the outer package is closed. While there may be a small gap between the inner package and the cover, the term “virtually” implies that this gap may exist.

Mena et al. does not disclose that the height of the inner space is at least twice the height of the inner package. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the height of the inner space at least twice the height of the inner package, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mena et al. as applied to claim 1 above, and further in view of Merrill et al. (US Patent No 5,459,258).

Mena et al. discloses all elements of the claimed invention except for the inner package being manufactured from a material produced on the basis of starch.

Merrill et al, teaches a thermoplastic material produced on the basis of starch that can formed into containers, or packages (column 2, lines 47-55; column 7, lines 25-29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have constructed the second insert of the Mena et al. package of a material produced on the basis of starch, as taught by Merrill et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mena et al. as applied to claim 1 above, and further in view of Gottlieb (US Patent No. 2,375,843).

Mena et al. discloses a method for packaging in which an outer package is set up forming an inner space with four bearing parts (50) set up in its four corners, whereupon in the inner space accessories of the product to be packaged can be laid, the inner package is borne on the bearing parts (column 7, lines 1-3), in which inner package the product to be packaged (36) is laid in a product cavity open at a side remote from the inner space (Fig. 2), whereupon a cover is closed over the inner package and the product included therein (column 5, line 53-55). There is a space left between the bottom panel and the first insert of the package, allowing for accessories to be laid there.

Although Mena et al. does not explicitly disclose that the outer package is constructed from a blank, it is well known in the art to construct a package or carton

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from a folded blank. Gottlieb teaches a shipping and display package with a cover that is folded from a blank (Fig. 4; column 1, lines 6-8; column 2, lines 33-49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have constructed the outer package of Mena et al. from a blank in order to have a package made from one sheet of material and that can be collapsed for storage purposes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M. PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Coby can be reached on (571) 272-4017. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sharon M Prange/
Examiner, Art Unit 4133

April 14, 2008

/Frantz Coby/
Supervisory Patent Examiner
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